

United States Department of Health and Human Services

Presents “2005 Annual Ethics Training: Outside Activities”

**Computer-Based Ethics Training
for Employees**

Welcome to introductory ethics training on Outside Activities.

This training provides instruction on outside activities and the prior approval requirement which is required of HHS employees for certain activities.

You control the pace of this training. Please click on the page down, enter, or the ↓ button on your keyboard to advance each slide.

This training is meant to heighten your awareness of ethical issues relating to your outside activities which may require consultation with your agency's Deputy Ethics Counselor (DEC) or Ethics Contact (EC).

If you have any questions, please do not hesitate to call your DEC or EC. You can access their name, address, and telephone number at <http://intranet/ogc/hhsethics/contacts.htm>.

The provisions which discuss “Outside Employment and Other Outside Activities” are found in the “Supplemental Standards of Ethical Conduct and Financial Disclosure Requirements for Employees of the Department of Health and Human Services” (Supplemental Standards). The Supplemental Standards can be found at 5 C.F.R. Parts 5501 & 5502.

Link to the complete text of the Supplemental Standards:
[http://intranet/ogc/hhsethics/topics/regs/5CFRParts5501
and5502UnofficialCompilation.pdf](http://intranet/ogc/hhsethics/topics/regs/5CFRParts5501and5502UnofficialCompilation.pdf)

DO YOU WANT:



TO EARN EXTRA CASH?

“I get off my full-time job at 4:00 p.m., I am available for work at 5:00 p.m. every day.”



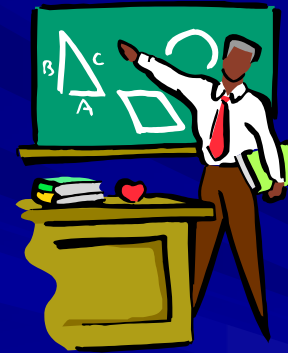
TO LEARN NEW JOB SKILLS?

“I want to learn how to advise on tax issues.”



TO SERVE ON THE LOCAL SCHOOL BOARD?

“I was thinking of running for a board member position on the D.C. School Board.”



TEACH A COURSE?

“I want to teach language classes at the local community college.”

PRACTICE LAW IN YOUR SPARE TIME?

“I was thinking about representing clients in divorce proceedings.”



If you answered yes or you are thinking about participating in some type of outside activity,

then you need to know your...

- ethical obligations as a federal employee; and
- the rules governing outside activities.

Rule # 1

An employee shall not engage in any outside activity that conflicts with his/her official duties.

An outside activity will conflict with
your official duties when:

it is prohibited by law or regulation, or would
require you to be removed from working on
matters so central or critical to your official
duties as to essentially prevent you from
doing your job.

The most fundamental ethics-related rule of governmental service is that your only focus in taking any governmental action is doing what is best for the public. This is known as the “public trust.” This means that if your financial interests could be affected, you should not take official action. This includes the financial interests of your outside employer.

Rule # 2

All employees are prohibited from receiving compensation for assisting with the preparation of grant applications, contract proposals, or other funding mechanisms for submission to HHS.

Examples

- An employee cannot be compensated for reviewing a grant application of a non-profit foundation which will be submitted to HHS.
- An employee cannot be compensated for assisting in the preparation of a security company's contract proposal which will be submitted to HHS.

Rule # 3

All employees are prohibited from receiving compensation for outside employment in HHS-funded activities.

Example

- An employee cannot be compensated for working on a specific project at a university that is being funded by an HHS grant, even if the university indicates his or her salary will come from a non-HHS funded account.

Rule # 4

All employees are prohibited from participating in activities that create an appearance of using public office for private gain, or create the appearance that the employee's official position was used to obtain an outside business opportunity.

Rule # 5

All employees are prohibited from being compensated for teaching, speaking, or writing that *relates to their official duties* or if invited by a prohibited source that has government matters pending before you.

What does “relates to official duties” mean?

1. If you were invited because of your official position (as opposed to expertise in the subject matter).
2. If the invitation was extended by an entity that has interests that may be affected substantially by your official duties.
3. If the information conveyed through your activity draws from nonpublic government information.

“Relates to official duties” continued...

4. The subject of the activity deals significantly with any matter to which you are presently assigned, or were assigned within the previous one-year period.
5. The subject of the activity deals significantly with any ongoing or announced policy, program or operation of the agency.

Examples

- An employee cannot receive compensation from a national women's organization to speak about the matters she is currently working on or worked on within the last year at HHS.
- An employee cannot receive compensation from the Washington Post for writing an article about scientific research currently being conducted by NIH, or scientific conclusions he helped formulate that were released by NIH within the last year.

Examples, continued...

- An employee could receive compensation to speak to a national management organization about general employment laws in the federal government. The employee would be allowed to speak at this event because the circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his expertise on the particular subject matter (employment law) and not because of his official position. Also, the employee would not be speaking about any specific HHS employment law issues.

Examples, continued...

- An employee could receive compensation to speak about an HHS project that she had not worked on. The invitation was extended by a college alumni class, not a prohibited source. The employee would be allowed to speak about the project because it is not an ongoing HHS program; is not a matter to which she presently is assigned or had been assigned during the previous one-year period; and because the invitation was not extended by a person who has interests that may be affected substantially by her performance or nonperformance of her official duties.

Teaching/Speaking/Writing Exception

You may receive compensation to teach a course on topics related to your official duty if the course consists of multiple presentations, and is offered as a part of a regularly scheduled curriculum at an accredited institution of higher education.

Remember.....

Under a criminal statute, you may not accept outside compensation for performing official duties.

The closer your outside activities are to your official duties, the more likely it is that you are in fact performing official duties, but being compensated by a non-Federal source.

This is not allowed.

Rule # 6

Under another criminal statute, you cannot represent another person before any federal agency or court in any matter in which the United States is a party or has a direct and substantial interest.

Example

- You cannot accompany your best friend to his IRS audit to represent him.

Rule # 7

Rules under the Hatch Act and federal regulations.

- There are limitations on the political activities of employees. Career SES members and Commissioned Corps members are precluded from participating in most political activities.
- Other employees may have political activities, but are banned from political fundraising and from engaging in political activities on federal property or during duty hours. Employees should consult their DEC for more information.

Rule # 8

Employees must seek approval when they provide *consultative or professional services* based upon knowledge or skill in a field of science or learning customarily acquired through specialized training or higher education.

Examples of Consultative or Professional Services

- An employee who is an attorney volunteers with a non-profit organization helping them prepare for a lawsuit.
- An employee holding a real estate license volunteers his realtor services to his church in search of land for new facility.

Not Consultative or Professional Services

- An employee trained in music leads a choir at her church.
- An employee who once worked as a painter helps his neighbor paint his house.

Rule # 9

An employee must seek approval to serve as an officer, director, board member or other member of a group, where service requires the provision of advice, counsel, or consultation.

Examples

- An employee serves on the board of directors for the Capital Area Food Bank.
- An employee serves as the President of the American Bar Association.
- An employee serves as a member of the Maryland Social Workers' Taskforce.

Additional Rules for OGC or IG Attorneys

1. OGC or IG Attorneys cannot:
 - practice law where the outside activity may require the assertion of a legal position that conflicts with the interests of HHS.
 - engage in any outside law practice that might require the interpretation of a statute, regulation, or rule administered or issued by HHS.
 - Exceptions to the Law Practice Prohibitions
(if appropriate approvals are obtained)
 - Relatives or an estate for which attorney is fiduciary (with or without compensation).
 - Persons subject to disciplinary, loyalty, or other personnel administration proceedings (without compensation).

Prior approval is never needed for

Uncompensated service as an officer, director, or board member of a **political, religious, social, fraternal, or recreational** organization where service will not require professional services.

- Some FDA and NIH employees may be subject to more stringent rules. FDA and NIH employees should consult their DEC for guidance.

Examples not requiring Prior Approval

- An employee serves as an uncompensated alumnae member of the National Executive Board for Omega Phi Alpha National Service Sorority.
- An employee serves as an uncompensated treasurer of his high school alumni class.
- An employee serves on the board of directors of his tennis club.

So, What Can I Do ?

You can participate in outside activities and outside employment if the employment or activity does not conflict with your HHS duties and does not violate a federal statute or regulation. However, all employees must seek prior approval from their component before engaging in most outside activities, unless your activity/employment clearly falls within one of the exceptions discussed.

"Employment" includes:

- any compensated or uncompensated employment; or
- business relationship involving the provision of personal services, including: officer, director, trustee, employee, agent, attorney, consultant, contractor, or general partner.

How do I seek prior approval?

Fill out an HHS Form 520 and submit it to your supervisor. The 520 form can be obtained from your DEC or on-line at

<http://intranet.hhs.gov/ogc/hhsethics/forms/forms.htm>.

When do you submit your request for prior approval?

The request should be submitted to your supervisor a reasonable time in advance of the proposed activity.

What happens next?

After your supervisor reviews your HHS Form 520 he/she will forward your request to your agency's DEC for review.

The Review Process

Your DEC will review your request and the recommendation of your supervisor and will determine whether the request may be:

- ✓ approved as described;
- ✓ approved subject to conditions; or
- ✓ denied.

After your DEC reviews

Your HHS Form 520 will then be forwarded to an Agency Designee for a final determination.

If I am approved, how long will my approval last ?

- The approval is effective for one-year from the date of approval.
- However, if there is a significant change in the nature of the activity or in your official HHS duties, a revised request for approval must be submitted to your supervisor.
- Also, if the duration of the activity will exceed one-year, you must renew the request for approval no later than thirty days prior to the expiration of the period authorized.

Test Your Outside Activity Knowledge

Question # 1

Do I need approval to work a second job or to participate in an outside activity?

Answer # 1

Yes. Employees are required to obtain advance approval for certain outside activities. Approval is needed when they provide consultative or professional services or are compensated for teaching, speaking, or writing that relates to their official duties or if invited by a prohibited source. FDA and NIH employees are subject to additional approval requirements.

Prior approval is not required for activities of a political, religious, social, fraternal, or recreational nature, unless the activity involves giving professional services or is performed for compensation other than the reimbursement of expenses.

Question # 2

I am a board member on my Homeowner's Association (HOA).

Do I need to fill out an HHS Form 520?

Answer # 2

No, HOA board members do not need to fill out an HHS Form 520. Outside positions as an officer, director, board, or advisory group member of a condominium association, or similar organization focused on residential interests, with respect to which the employee has a personal connection through property ownership or other investment relationships or a leasehold tenancy are exempt.

Question # 3

Steven, is a HRSA employee who has been appointed by the Governor to serve on the Virginia Board of Social Work. Steven is a Public Health Analyst and a licensed social worker. Members of the Board receive an honorarium in the amount of \$25 each month.

Does Steven have to fill out an HHS Form 520?

Answer # 3

Yes. Serving on the Virginia Board of Social Work Examiners is clearly an outside activity. Remember, a Federal employee may not engage in an outside activity that is incompatible with his Government position. An outside activity may be incompatible if it will require the employee to disqualify or recuse himself from participating in important duties. Serving in this role might be a problem for Steven if his HRSA work involves state government.

Before approving the activity, the agency will have to confirm that Steven's appointment to this position will not require his recusal from matters central or critical to his official duties.

Question # 4

If I don't need to seek prior approval, then I don't have any conflicts of interests or ethics concerns, correct?

Answer # 4

No, incorrect. All it means is that you don't have to get agency approval before engaging in outside activities. Your activities still must not violate applicable Federal statutes or regulations, including the Standards of Ethical Conduct, or the HHS Supplemental Standards. Absent the prior approval requirement, it's up to you to determine whether you need to seek the advice of an ethics official.

Question # 5

Ms. Smith is an HHS attorney and an uncompensated minister in her church.

Does she have to fill out an HHS Form 520?

Answer # 5

No. Prior approval is not required if "the service is provided without compensation other than reimbursement of expenses to a "political, religious, social, fraternal or recreational organization and the position held does not require the provision of professional services." Ms. Smith is not required to submit an HHS Form 520.

Question # 6

I am a Health Science Administrator with NIH. I would like to work as a waiter on the weekends at Friday's.

Do I need to fill out an HHS Form 520?

Answer # 6

No, an HHS Form 520 is not required for an employee who sell crafts or works at fast food restaurants, grocery stores, etc. Those employees are not providing consultative or professional services based upon knowledge or skill in a field of science or learning customarily acquired through specialized training or higher education. Thus, no prior approval or the filing of the HHS Form 520 is required.

Question # 7

Sheila Jones is a Management Analyst with the Centers for Medicare and Medicaid Services. During her spare time she works uncompensated as the Assistant Volunteer Coordinator with a halfway house where recently released state convicts serve the remaining months of their sentence. The facility receives both state and federal funds, but not HHS funds.

Does Ms. Jones have to fill out an HHS Form 520?

Answer # 7

Yes. An employee must obtain written approval prior to engaging, with or without compensation, in services to a non-Federal entity as an officer, director, or board member, or as a member of a group, which requires the provision of advice, counsel, or consultation.

As the Assistant Volunteer Coordinator, Ms. Jones might be providing professional or consultative services. Thus, she would be required to fill out an HHS Form 520.

Even if Ms. Jones is approved, she must be aware of certain restrictions which relate to her outside activity.

- She may not represent the facility before any Federal court or Federal agency in any matter in which the United States is a party or has a direct or substantial interest. This includes efforts by the facility to obtain funds from a DOJ program to aid community justice programs.
- Even though she is not paid for her work, she might be considered an employee of the organization. If so, she may not work on any matter, as a Government employee, that could affect the financial interests of the facility. For example, a policy decision to extend Medicaid benefits to inmates at halfway houses would affect the financial interests of the organization and she would have to recuse herself from such an issue.
- As an active volunteer, at a minimum she must disqualify herself from all official actions involving this organization she serves.

Question # 8

What if the position in the previous example was compensated ?

Answer # 8

Compensation is significant.

An employee shall not, for compensation, engage in employment, funded by an HHS grant, contract, cooperative agreement, or cooperative research and development agreement.

Thus, Ms. Jones must make sure that her compensated employment is not funded by an HHS grant. If the facility starts receiving HHS funds after she starts the position, she may need to terminate, or switch to a non-compensated status.

Question # 9

John, an attorney with the Health Resources and Services Administration branch of the Public Health Division of OGC requests approval to answer calls at a Legal Services Clinic for low-income persons dealing with landlord/tenant issues. This activity will last for one year. He will not be compensated.

Does John have to file an HHS Form 520?

Answer # 9

Yes, John must file an HHS Form 520. Volunteering at the Legal Services Clinic is an outside activity which requires prior approval as a professional and consultative activity. John will be allowed to volunteer in this outside activity so long as it does not conflict with his official Government duties. John may not represent the Clinic before any Federal court or Federal agency in any matter in which the United States is a party or has a direct and substantial interest.

Also, John should check his state bar rules to ensure he is in compliance with the rules.

Question # 10

Marilyn, a Policy Analyst with the Administration for Children and Families works on health issues relating to children. Marilyn would like approval to serve on the Board of a private school in Washington, DC for a 3 year period. She will not be compensated.

Does Marilyn need to submit an HHS Form 520?

Answer # 10

Yes, Marilyn must submit an HHS Form 520. An employee must seek approval to serve as an officer, director, board member or other member of a group, where service requires the provision of advice, counsel, or consultation.

In addition, Marilyn must submit a renewal request (new HHS Form 520) each year that she serves on the Board. Outside activity requests can only be approved for a one-year period.

What's next if I filed an HHS Form 520?

The year after you file your HHS Form 520 you must file an HHS Form 521.

What is the HHS Form 521?

The HHS Form 521 is the
Annual Supplemental Report of Outside
Activity.

Who must file an Annual Report?

- Any HHS employee for whom an outside activity was approved; or
- an employee who has participated in any outside activity for which prior approval was required.

When must the annual report be filed?

- The annual report must be filed each year.
- Due: On or before February 28.

Why must I file the HHS Form 521?

- Because it is a new supplemental reporting requirement (5 C.F.R. Part 5502) for all HHS employees who have participated in outside activities the previous calendar year.

What is the purpose of the HHS Form 521?

- To provide the agency the opportunity to verify whether and on what terms the employee actually undertook the activity for which approval was requested; and
- to ensure that the approved activities continue to meet approval standards; and
- to assist employees in screening for potential conflicts.

What is the process for submitting the HHS Form 521?

- You submit the HHS Form 521 to your supervisor.
- Your supervisor reviews the 521.
- Your supervisor forwards the 521 to your agency DEC.
- The DEC reviews the 521.
- Your DEC will review your answers and your supervisor's determination. The DEC will indicate whether he concurs with your supervisor's determination.

Question # 11

What happens if I participate in an outside activity that requires approval, but I don't complete the HHS Form 520?

Answer # 11

Even if you forgot to file the HHS Form 520 you must still report your outside activity on your HHS Form 521. The outside activity approval process is an integral part of the Agency's ethics program. Employees who fail to obtain approval prior to participating in certain activities will be out of compliance with the Agency's ethics regulations and could be subject to investigation and disciplinary action.

Question # 12

Do I have to file an HHS Form 521 if I have no outside activities to report?

Answer # 12

No. Negative reports are not required.

Recap

- ✓ You submit your HHS Form 520 to your supervisor before engaging in the proposed outside activity.
- ✓ Your 520 is reviewed by your supervisor and your DEC and approved by your agency designee.
- ✓ If approved, you can begin participation in your outside activity.
- ✓ If your participation in the activity lasts more than one year, you must submit a renewal request for approval.
- ✓ On or before February 28th each year, you must submit your HHS Form 521 to your supervisor.

The End!

Thank you for reviewing the rules on
outside activities.